

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

March 20, 2015

**Committee**  
**Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on March 4, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated March 3, 2015, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON & WILLIAMS LLP, IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK".

The purpose of the proposed resolution is to authorize: (1) the employment of Michael Shebelskie, Esq., of Hunton & Williams LLP, as appellate counsel to represent the County in Hawaii Wildlife Fund, et al. v. County of Maui, Civil 12-00198 SOM BMK; and (2) raising the compensation limit for the employment of special counsel by an additional \$500,000 for trial preparation, motions, trial, and appeal, for a total compensation not exceeding \$1,750,000.

Your Committee received a copy of the complaint by correspondence dated January 18, 2013, from the Department of the Corporation Counsel. The complaint alleges violations of the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. Sections 1311(a) and 1342, and other laws, arising out of the County's operation of injection wells at the Lahaina Wastewater Reclamation Facility, and seeks injunctive relief, penalties, and attorney's fees and costs.

Specifically, Plaintiffs allege the County discharged wastewater and other pollutants from its injection wells at the Lahaina Wastewater Reclamation Facility through hydrologically connected groundwater into

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

Page 2

**Committee**  
**Report No. \_\_\_\_\_**

the waters of the United States and failed to obtain and comply with the terms of a National Pollutant Discharge Elimination System permit.

Your Committee notes Section 3-6, Revised Charter of the County of Maui (1983), as amended, authorizes the Council to retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment.

Your Committee notes the Council has previously approved employment of special counsel and set compensation limits in this case, by Resolutions 12-127, 14-52, 14-99, and 14-137.

A Deputy Corporation Counsel provided an update on the status of the case.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Your Committee voted 7-0 to recommend adoption of the proposed resolution. Committee Chair Guzman, Vice-Chair Crivello, and members Baisa, Couch, Hokama, Victorino, and White voted "aye". Committee members Carroll and Cochran were excused.

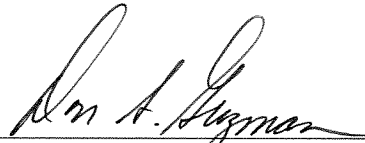
Your Committee of the Whole **RECOMMENDS** that Resolution \_\_\_\_\_, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON & WILLIAMS LLP, IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK", be **ADOPTED**.

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

Page 3

**Committee  
Report No.** \_\_\_\_\_

This report is submitted in accordance with Rule 8 of the Rules of the Council.



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DON S. GUZMAN, Chair

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# Resolution

No. \_\_\_\_\_

AUTHORIZING THE EMPLOYMENT OF  
SPECIAL COUNSEL HUNTON & WILLIAMS LLP,  
IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI,  
CIVIL NO. 12-00198 SOM BMK

WHEREAS, the Council alone is authorized to retain or employ special counsel upon a resolution passed by two-thirds vote; and

WHEREAS, by Resolution No. 12-127, the Council authorized the employment of special counsel HUNTON & WILLIAMS LLP ("special counsel") to represent the County of Maui in matters relating to Hawaii Wildlife Fund, et al. v. County of Maui; and

WHEREAS, Resolution No. 12-127 provided that Colleen P. Doyle, Esq., of Hunton & Williams LLP, shall provide the majority of the legal services in this matter; and

WHEREAS, by Resolution Nos. 14-52, 14-99, and 14-137, the Council authorized increases in total compensation for trial preparation, motions, appeal and, if necessary, trial, for a total compensation of \$1,250,000; and

WHEREAS, the Corporation Counsel has requested authorization to authorize employment of Michael Shebelskie, Esq., of Hunton & Williams LLP, to provide legal services related to appellate work in this matter; and

WHEREAS, the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$500,000 for trial preparation, motions,

**Resolution No. \_\_\_\_\_**

trial, and appeal, for a total compensation not exceeding \$1,750,000; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby approves and authorizes the employment of special counsel Michael Shebelskie, Esq., of Hunton & Williams LLP, to provide legal services related to appellate work in this matter; and

2. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel by \$500,000, for a total compensation not exceeding \$1,750,000; and

2. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM  
AND LEGALITY:



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RICHELLE M. THOMSON  
Deputy Corporation Counsel  
County of Maui